

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

**BEFORE
HON'BLE SHRI JUSTICE DWARKA DHISH BANSAL**

ON THE 2nd OF MAY, 2025

WRIT PETITION No. 28964 of 2022

SUNIL KUMAR

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Subhash K. Chaturvedi - Advocate for the petitioner.

Shri Anshuman Swamy - Government Advocate for respondents 1-4/State.

Shri Akshansh Shrivastava - Advocate for respondents 5-6.

ORDER

This writ petition has been preferred by the petitioner challenging the order of termination dated 29.09.2017 (Annexure P/3) passed by respondent no.6-Chief Executive Officer, Janpad Panchayat Bahoriband, District Katni, whereby on the ground of registration of criminal case no. 4927/2012 against the petitioner in the Court of JMFC, Katni for the offences punishable under section 420, 468, 471 and 460 of I.P.C. and he having been confined in custody of more than 48 hours in District Sub-Jail, Katni, his services were terminated even without issuing any notice and without giving hearing opportunity to the petitioner.

2. Learned counsel for the petitioner submits that the petitioner was appointed and posted as Rozgar Sahayak on 17.05.2010 and since then he was performing his duties with full devotion and satisfaction of his superior authorities but suddenly on the ground of registration of said criminal case in

the court of JMFC, Katni, services of the petitioner were terminated, whereas no FIR was registered against the petitioner and only a false private complaint was filed by Village Sarpanch, namely Chandrabhan, which was registered by the Court on 28.11.2016, however, upon contest made by the petitioner, said private complaint was dismissed vide final judgment dated 18.08.2022 (Annexure P/7) passed by IV Addl. Sessions Judge, Katni, acquitting the petitioner from all the charges. He submits that even after passing of the final judgment dated 18.08.2022, the petitioner has not been taken back in service. With these submissions he prays for allowing the writ petition. In support of his submissions, learned counsel for the petitioner placed reliance on a decision given by a coordinate Bench of this Court in the case of Ramanlal Ahirwar vs. The State of Madhya Pradesh, in **W.P. No.26960/2022 decided on 12.12.2024** (at Jabalpur).

3. With the support of return and taking this Court to clause 16 of the guidelines (Annexure R/1) issued by respondent 2 in respect of appointment of Gram Rozgar Sahayak, learned counsel for respondents 1-4/State submits that if a person/employee has remained in custody for a period of more than 48 hours pursuant to registration of FIR, then even if he has been acquitted from the charges, he cannot be taken back in service. He submits that although no notice was issued to the petitioner and no opportunity of hearing was given to him, before termination of his services, but that was not required in the light of clause 16 of the guidelines (Annexure R/1). With the aforesaid and supporting the order of termination, he prays for dismissal of writ petition. In support of his submissions, learned counsel placed reliance on a coordinate Bench decision of this Court in the case of Smt. Anita Sant vs. State of Madhya Pradesh and Ors. in **W.P. No.2548/2011 decided on 24.01.2017** (at Jabalpur), which was affirmed by Division Bench by dismissing **W.A. No.165/2017 on 04.04.2018** for want of prosecution.

4. Heard learned counsel for the parties and perused the record.
5. From perusal of termination order dated 29.09.2017 (Annexure P/3) it is clear that the petitioner was terminated on the ground that he remained in custody for a period of more than 48 hours in District Sub-Jail, Katni (w.e.f. 09.11.2016 to 19.01.2017) pursuant to registration of criminal case no. 4927/2012 and in last paragraph of the order it is mentioned that, as the petitioner has been found guilty, therefore, his services are terminated.
6. Undisputedly and from the material available on record, it is clear that no FIR was lodged against the petitioner but a private complaint was filed by the then Sarpanch, namely Chandrabhan S/o Sewaram Patel against the petitioner, in which final judgment was passed on 18.08.2022, acquitting the petitioner from the charges.
7. Admittedly, before passing the order of termination, the petitioner was not given any opportunity of hearing and he was not even issued notice to show cause, which is clear violation of principles of natural justice. Although the petitioner has not produced his appointment order to show terms and conditions of the appointment on the post but the respondents also have not cared to place relevant document on record to show the terms and conditions relating to appointment of the petitioner. However, para 3 of the judgment dtd.18.08.2022 (Annexure P/7) depicts that the petitioner was originally appointed vide order dtd.31.05.2008 on the post of 'Samvida Shala Shikshak-III'.
8. Careful perusal of decision in the case of Smt. Anita Sant (**supra**) shows that it is distinguishable on several facts as mentioned therein and does not provide any help to the respondents.
9. As a result of the aforesaid and in view of the judgment passed by IV Additional Sessions Judge, Katni in ST 108349/2016 acquitting the petitioner from all the charges, the impugned order of termination being not sustainable, is

hereby set aside with the further direction to the respondents to reinstate the petitioner in service with immediate effect, however without back wages. It is pertinent to mention here that if the respondents do not permit the petitioner to join the services, the petitioner shall be entitled for all the benefits from the date of order passed today by this Court.

10. In view of the aforesaid, this writ petition is **allowed** and disposed off.

11. Misc. application(s), pending if any, shall stand closed.

(DWARKA DHISH BANSAL)
JUDGE

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